

MEMORANDUM

July 24, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: RUBEN BAEZA, JR.
Principal Deputy County Counsel
Law Enforcement Services Division

JOHN J. COLLINS, ESQ.
Collins, Collins, Muir & Stewart

RE: Anthony Fernandez v. County of Los Angeles
Los Angeles Superior Court Case No. PC038334

DATE OF
INCIDENT: May 22, 2004

AUTHORITY
REQUESTED: \$750,000

COUNTY
DEPARTMENT: Sheriff's Department

CLAIMS BOARD ACTION:

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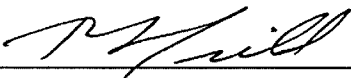
Approve


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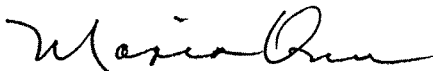
Disapprove

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Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on August 21, 2006

SUMMARY

This is a recommendation to settle for \$750,000, a lawsuit filed by Nancy Berny, as guardian ad litem for Antonio Fernandez, who was assaulted by four inmates while incarcerated in Los Angeles County Jail.

LEGAL PRINCIPLE

A public entity is responsible for the negligent acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

Anthony Fernandez was arrested on April 23, 2004, for carrying a concealed weapon, and he was sentenced to 180 days in County jail. On May 24, 2004, Mr. Fernandez was housed in a dormitory at the Pitchess Detention Center, North Facility ("PDC North"), where he was assaulted by four other inmates. At the time of the incident, the Deputy assigned to the Dormitory Control Office had left her post believing that another Deputy was on his way to relieve her. She was mistaken, and her post was vacant for approximately 20 minutes.

An inmate in the dormitory alerted another Deputy who was nearby that a disturbance was occurring. The Deputy immediately responded and found Anthony Fernandez unconscious at the rear of the dormitory. The Deputy summoned medical personnel to the scene.

A Sheriff's Department investigation of the assault revealed that the assailants were angry at Mr. Fernandez because he had taken the personal property of one of the assailants. The assailants took Mr. Fernandez to an area of the dormitory where they knew it would be difficult for Deputies to monitor their activities. The four assailants were subsequently convicted of attempted murder.

DAMAGES

Mr. Fernandez claims significant neurological damage as a result of the head injuries he sustained. His symptoms include blurred vision, slurred speech, impaired balance, and impaired judgment. While our experts would refute the extent of Mr. Fernandez's injuries, it is clear that he did sustain neurological damage.

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Pain and Suffering	\$ 1,000,000
Medical expenses	\$ 2,000,000
Loss of Earnings	<u>\$ 750,000</u>
Total	<u>\$ 3,750,000</u>

The proposed settlement calls for the County to pay Nancy Berny, as guardian ad litem for Antonio Fernandez, \$750,000 for all of his damages, costs and attorneys' fees.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement.


Expenses incurred by the County in defense of this matter are attorneys' fees of \$45,594 and \$29,960 in costs. The costs are relatively high due to the medical experts our attorneys retained to evaluate Mr. Fernandez's medical condition.

EVALUATION

This is a case of potential liability. The Deputy that was assigned to monitor the inmates' activities in the dormitory had left her post, and the post was vacant for approximately 20 minutes during which time the assault occurred. It is likely a jury would conclude that the Deputy was negligent in the performance of her duties.

We join with our private counsel, Collins, Collins, Muir & Stewart, in recommending a settlement of this matter in the amount of \$750,000. The Sheriff's Department concurs in the recommendation.

APPROVED:



ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RHG:RB:scr